

## CHAPTER 15

### RELIEF FOR TRADING LOSSES

#### 15.1 Introduction

A company makes a loss when its income is less than its expenses. The loss per the accounts is adjusted for the normal tax deductions, such as disallowed expenditure (e.g. client entertaining, depreciation) and can be increased by claiming capital allowances. A company may not wish to claim all of the capital allowances in order to reduce the amount of loss.

[CTA 2009, s.47](#)

Where the adjusted trading profit figure is a loss, the trade profit assessment in the corporation tax computation will be nil. The loss itself is relieved by making a number of separate claims.

#### 15.2 Relief for trading losses

There are a number of options available:

- (i) Set against **total profits** in the current chargeable accounting period. [CTA 2010, s.37\(3\)\(a\)](#)
- (ii) **Carry back** and set against **total profits** in the preceding 12 months (extended to 3 years in certain cases) [CTA 2010, s.37\(3\)\(b\)](#)  
[FA 2009, Sch 6](#)
- (iii) **Carry forward** and set against next available **future trading profits from the same trade**. [CTA 2010, s.45\(4\)](#)
- (iv) **Surrender** the loss to a **fellow 75% owned group company**. This type of relief is known as group relief. These rules will be covered in a later chapter. [CTA 2010, s.99\(1\)](#)

'**Total profits**' referred to above means income and gains before deducting qualifying charitable donations.

#### 15.3 Current year relief

The loss is set against **total profits before deducting qualifying charitable donations** of the current chargeable accounting period.

[CTA 2010, s.37\(3\)\(a\)](#)

The claim must be for the lower of the available loss or the available profit. In other words, no partial claims are allowed, the claim must either use all of the loss, or eliminate all of the available profits.

**Illustration 1**

Lossington Ltd has the following results for the year to 31 March 2011:

	£
Trading loss	(70,000)
Chargeable gains	15,000
UK property business income	21,000
Donation to charity	(3,000)

The current year claim under s.37(3)(a) will be as follows:

	12m to 31.3.11
	£
Trade profit	Nil
UK property business income	21,000
Chargeable gains	<u>15,000</u>
Total profits	36,000
<b>s.37(3)(a) Current year loss</b>	<b><u>(36,000)</u></b>
	-
Qualifying charitable donations	<u>Unrelieved</u>
TTP	<u>-</u>

As the loss is offset before any deduction for charitable donations, any donations will be unrelieved and wasted unless they can be group relieved. This is discussed in a later session.

The unrelieved trading loss of £34,000 will be carried forward against future profits from the same trade.

This is summarised in a loss memorandum as follows:

Loss memorandum	£
Loss (y/e 31.3.11)	70,000
Current year claim s.37(3)(a)	<u>(36,000)</u>
Unrelieved loss to carry forward	<u><u>£34,000</u></u>

**15.4 Carry back of losses**

The claim to **carry back** a loss under s.37(3)(b) may **only** be made **once a current year claim has been made**, under s.37(3)(a) - i.e. (a) before (b).

[CTA 2010, s.37\(3\)\(a\)](#)

If there are no profits in the current period, then it is not possible to make a s.37(3)(a) claim. This does not prevent a s.37(3)(b) claim from being made.

The loss carried back is set against total profits in the **previous 12 months**, before any qualifying charitable donations.

As with the current year claim, the carry back claim must be for the lower of the available loss or the available profit.

### Illustration 2

Assume in the last illustration that Lossington Ltd had the following income in the previous 12 month accounting period, the year ended 31 March 2010:

	£
Trade profit	10,000
UK property business income	21,000
Donation to charity	(1,000)

As a current year claim to use the loss in the year ended 31 March 2011 has already been made, we can now carry the loss back to the year ended 31 March 2010.

The carry back claim under s.37(3)(b) will be:

	12m to 31.3.10
	£
Trade profit	10,000
UK property business income	<u>21,000</u>
Total profits	31,000
Current year loss (nil as there is no loss in this year)	-
	<hr/>
	31,000
<b>s.37(3)(b) Losses carried back</b>	<b><u>(31,000)</u></b>
	Nil
Donation to charity	<u>Unrelieved</u>
TTP	<u>Nil</u>

This further use of the loss can again be shown in the loss memorandum as follows:

Loss Memo:	£
Total loss	70,000
Current year claim (from Illustration 1)	<u>(36,000)</u>
	34,000
Carry back claim s.37(3)(b)	<u>(31,000)</u>
Loss to carry forward	<u>£3,000</u>

If a company wishes to make a claim under s.37(3) to use its losses in the current year/preceding year, it must **notify the HMRC within two years** of the end of the chargeable accounting period in which the loss was made.

[CTA 2010, s.37\(7\)](#)

In this example a claim must be made no later than 31 March 2013. HMRC may extend this time limit at their discretion.

## 15.5 Temporary extension to 12 month loss carry back rule

[FA 2009, Sch 6,  
Para 3](#)

FA 2009 provides for a **temporary extension** to the loss carry back rules under s37(3). Where a loss is incurred in an accounting period ending after 23 November 2008 and before 24 November 2010 it can be carried back **three years** rather than 12 months.

The loss must be off-set against total profits of later years before earlier years.

The maximum amount of losses that may be carried back by a company by more than 12 months by virtue of this paragraph is:

- £50,000 for losses arising in accounting periods ending after 23 November 2008 and before 24 November 2009, and
- £50,000 for losses arising in accounting periods ending after 23 November 2009 and before 24 November 2010.

This is regardless of the number of accounting periods falling within each of those periods. Therefore, for example, if two or more loss making accounting periods ended after 23 November 2008 and before 24 November 2009, the total extended loss relief claims for those accounting periods together would be capped at £50,000.

If a **loss-making accounting period** falling within the above periods is **less than 12 months**, the **£50,000 limit is pro-rated accordingly**.

### Illustration 3

Company X Ltd has the following results:

	Y/e 31.12.06	Y/e 31.12.07	Y/e 31.12.08	P/e 30.6.09	Y/e 30.6.10
	£	£	£	£	£
Trade Profit/(Loss)	100,000	90,000	(78,000)	(85,000)	(180,000)
UK Property Business	20,000	20,000	20,000	10,000	20,000
Non-trading profits (LR)	40,000	40,000	40,000	20,000	40,000

It is important to deal with each loss chronologically.

In respect of the loss for the y/e 31.12.08, the company will make a s.37(3)(a) claim against total profits of £60,000 and a claim under s.37(3)(b) against total profits of £150,000 in the y/e 31.12.07.. This uses the loss in full as follows:

Loss Memo for y/e 31.12.08:	£
Total loss	78,000
Current year claim s.37(3)(a)	<u>(60,000)</u>
	18,000
Carry back claim s.37(3)(b)	<u>(18,000)</u>
Loss unrelieved	<u>£Nil</u>

In respect of the loss for the p/e 30.6.09, the company will make a s.37(3)(a) claim against total profits of £30,000. The company will also make a claim under s.37(3)(b).

Although the total profits of the previous year are nil, following the loss relief claim for the loss of that year, an extended carry back claim against the profits of the y/e 31.12.07 can be made. This is because the p/e 30.6.09 is an accounting period ended after 23 November 2008 and before 24 November 2010.

As the accounting period is only 6 months long the maximum extended carry back of £50,000 (in respect of accounting periods ending in the period 24 November 2008 to 23 November 2009) needs to be time-apportioned to take account of the short period. The loss is used as follows:

Loss Memo for p/e 30.6.09:	£
Total loss	85,000
Current year claim s.37(3)(a)	<u>(30,000)</u>
	55,000
Extended carry back claim (50,000 × 6/12)	<u>(25,000)</u>
Loss unrelieved	<u>£30,000</u>

Before we deal with the loss of the y/e 30.6.10, let us see the impact of the current loss claims that have been made:

	Y/e 31.12.06	Y/e 31.12.07	Y/e 31.12.08	P/e 30.6.09
	£	£	£	£
Trade Profit	100,000	90,000	-	-
UK Property Business	20,000	20,000	20,000	10,000
Non-trading profits (LR)	40,000	40,000	40,000	20,000
Total Profits	<u>160,000</u>	<u>150,000</u>	<u>60,000</u>	<u>30,000</u>
Less: s.37(3)(a)			(60,000)	(30,000)
Less: s.37(3)(b)				
- y/e 31.12.08		(18,000)		
- p/e 30.6.09		<u>(25,000)</u>		
TTP	<u>160,000</u>	<u>107,000</u>	<u>Nil</u>	<u>Nil</u>

A current year claim will be made in respect of the loss of the y/e 30.6.10 to offset £60,000 of the loss against the total profits of the y/e 30.6.10.

There are no profits to relieve in p/e 30.6.09 or y/e 31.12.08. However, an extended carry back claim can be made to the y/e 31.12.07, as this is within three years of y/e 30.6.10. A maximum of £50,000 can be carried back (as y/e 30.6.10 is an accounting period ending between 24 November 2009 and 23 November 2010).

Loss Memo for y/e 30.6.10:	£
Total loss	180,000
Current year claim s.37(3)(a)	<u>(60,000)</u>
	120,000
Extended carry back claim (max £50,000)	<u>(50,000)</u>
Loss unrelieved	<u>£70,000</u>

We can now complete our calculation of TTP for all the periods.

	Y/e 31.12.06 £	Y/e 31.12.07 £	Y/e 31.12.08 £	P/e 30.6.09 £	Y/e 30.6.10 £
Trade Profit	100,000	90,000	-	-	-
UK Property Business	20,000	20,000	20,000	10,000	20,000
Non-trading profits (LR)	40,000	40,000	40,000	20,000	40,000
Total Profits	<u>160,000</u>	<u>150,000</u>	<u>60,000</u>	<u>30,000</u>	<u>60,000</u>
<b>Less:</b>					
s.37(3)(a)			(60,000)	(30,000)	(60,000)
<b>Less:</b>					
s.37(3)(b)					
- y/e 31.12.08		(18,000)			
- p/e 30.6.09		(25,000)			
- y/e 30.6.10		<u>(50,000)</u>			
TTP	<u>160,000</u>	<u>57,000</u>	<u>Nil</u>	<u>Nil</u>	<u>Nil</u>

## 15.6 Losses carried forward

The losses are set against the first available future trading profits from the same trade under s.45(4) i.e. **against trading profit only**.

[CTA 2010,  
s.45\(4\)](#)

No claim is required as the relief is given **automatically**. The relief is compulsory - if we have a loss brought forward, it will automatically be set against the next available future trading profits from the same trade.

**Illustration 4**

In the Lossington Ltd illustration 2 there is an unrelieved loss of £3,000.

An extended carry back claim was not possible because the loss making accounting period ended after 23 November 2010. Assume Lossington Ltd has the following results in the year ended 31 March 2012:

Trade profit	£2,000
UK property business income	£21,000

TTP will be calculated as follows:

	£
Trade profit	2,000
<b>s.45(4) loss brought forward</b>	<b><u>(2,000)</u></b>
	Nil
UK property business income	<u>21,000</u>
TTP	<u><u>£21,000</u></u>

The unrelieved loss of £1,000 will continue to be carried forward.

Finally here let's show the computations of TTP for all three years here in columns next to each other, as you would probably set it out like this in an examination question:

	<i>Year ended 31 March</i>		
	<i>2010</i>	<i>2011</i>	<i>2012</i>
	£	£	£
Trade profit	10,000	Nil	2,000
<b>Less losses b/fwd</b>	<u>-</u>	<u>-</u>	<b><u>(2,000)</u></b>
	10,000	Nil	Nil
UK property business	21,000	21,000	21,000
Chargeable gains	<u>-</u>	<u>15,000</u>	<u>-</u>
	31,000	36,000	21,000
<b>Less current year loss</b>	<u>-</u>	<b><u>(36,000)</u></b>	<u>-</u>
	31,000	Nil	21,000
<b>Less carried back loss</b>	<b><u>(31,000)</u></b>	<u>-</u>	<u>-</u>
	Nil	Nil	21,000
Less Donation to charity	<u>Lost</u>	<u>Lost</u>	<u>-</u>
TTP	<u>Nil</u>	<u>Nil</u>	<u><u>21,000</u></u>

**15.7 Carry back complications**

Remember that the carry back of a loss is for a full 12 month period. If the previous chargeable accounting period is less than 12 months, you can carry back to the period before that one by **applying time apportionment to the total profits of the previous period.**

[CTA 2010, s.38](#)

## 15.8 First year tax credits

[CAA 2001 Sch A1](#)

Loss making companies will be able to **surrender the losses attributable to enhanced capital allowances** (100% first year allowances) on designated energy-saving or environmentally-beneficial plant and machinery in exchange for a cash payment known as a **first year tax credit** from the Government.

Companies will be able to claim first year tax credits in respect of qualifying **expenditure incurred between 1 April 2008 and 31 March 2013**.

Eligible losses are those from a trade, an ordinary property business, an overseas property business, a furnished holiday lettings business or from managing the investments of an investment business.

The first year tax credit will be **19% of the loss surrendered** subject to an **upper limit** which will be the **greater of**:

- The total of the company's **PAYE and NICs liabilities** for the period for which the loss is surrendered; or
- **£250,000**.

A loss may not be surrendered as a first year tax credit if it could be set-off against its own taxable profits in the loss making period or surrendered as group relief.

Any losses available to carry forward will be reduced by the amount of the loss that has been surrendered under the new rules.

### Illustration 5

Finchley Ltd made a trading loss of £350,000 in the year to 31 March 2011. During the year Finchley Ltd had acquired an energy saving boiler for £60,000. The £350,000 trading loss is after deducting a 100% FYA of £60,000 on the acquisition of the energy saving boiler.

Finchley Ltd has no other income or gains in the year to 31 March 2011 and does not belong to a group relief group.

The company has a PAYE and NIC bill of £35,000 for the year.

Finchley Ltd will be able to claim a first year tax credit of  $19\% \times £60,000 = £11,400$  in return for surrendering £60,000 of its trading loss.



If a claim is made Finchley Ltd will only have £290,000 (£350,000 - £60,000 loss surrendered) of loss to carry forward and be relieved against the first available trading profits from the same trade in future chargeable accounting periods.

A company must claim first year tax credits in a return or amended return.

There will be a **clawback of the tax credit** if the qualifying plant and machinery for the enhanced capital allowances is **sold within four years after the end of the chargeable accounting period for which the tax credit was paid**, in which case the **loss will be reinstated**.

### Illustration 6

Following on from Illustration 5, Finchley Ltd sells the energy saving boiler on 20 June 2013.

This is within four years of 31 March 2011, the end of the CAP for which the tax credit was paid, therefore the tax credit will be clawed back - Finchley Ltd will have to repay the £11,400.

However, the original loss surrendered of £60,000 will be reinstated and Finchley Ltd will have an unrelieved loss of £350,000 relating to the year ended 31 March 2011 that will be carried forward against future trading profits.

**Example 1**

X plc has the following results:

	<i>Y/e 31.3.08</i>	<i>Y/e 31.3.09</i>	<i>Y/e 31.3.10</i>	<i>Y/e 31.3.11</i>
	£	£	£	£
Trade profit	12,000	100,000	-	14,000
Trading loss	-	-	(150,000)	-
Non trading profit (LR)	-	10,000	12,000	5,000
Chargeable gain	-	12,000	-	-
Donation to charity	(500)	(500)	(500)	(500)

**You are required to:**

- (a) Show how the trading loss incurred in the year to 31.3.10 will be relieved assuming relief is required as early as possible.
- (b) List any amounts to be carried forward, indicating the relief available.
- (c) Calculate the repayment of tax due to X plc as a result of the loss relief. Assume a small profits rate of 20% for FY2007 and 21% for FY2008.

**Example 2**

Losster Ltd started to trade on 1.10.08 has the following results in recent years:

	<i>Y/e</i>	<i>6m/e</i>	<i>Y/e</i>	<i>Y/e</i>
	<i>30.9.09</i>	<i>31.3.10</i>	<i>31.3.11</i>	<i>31.3.12</i>
	£	£	£	£
Trade profit	26,000	12,000	-	6,000
Trading loss	-	-	(50,000)	-
UK property business income	10,000	5,000	10,000	10,000
Donation to charity	(1,000)	(1,000)	(1,000)	(1,000)

- (a) What will the S.37(3)(a) claim be?
- (b) What will the S.37(3)(b) claim be?
- (c) How much loss will be relieved under S.45(4)?

**Answer 1****(a)**

	y/e 31.3.08 £	y/e 31.3.09 £	y/e 31.3.10 £	y/e 31.3.11 £
Trade profit	12,000	100,000	Nil	14,000
<b>Less: Losses b/fwd</b>	<u>          </u>	<u>          </u>	<u>          </u>	<b><u>(4,000)</u></b>
	12,000	100,000	Nil	10,000
Non-trading profit (LR)	Nil	10,000	12,000	5,000
Chargeable gains	<u>Nil</u>	<u>12,000</u>	<u>Nil</u>	<u>Nil</u>
Total profits	12,000	122,000	12,000	15,000
<b>Less: Current year loss</b>	<u>          </u>	<u>          </u>	<b><u>(12,000)</u></b>	<u>          </u>
	12,000	122,000	Nil	15,000
<b>Less: Carried back loss</b>		<b>(122,000)</b>		
<b>Less: Carried back loss (extended relief)</b>	<b><u>(12,000)</u></b>	<u>          </u>	<u>          </u>	<u>          </u>
	Nil	Nil	Nil	15,000
Less : Donation to charity	<u>Lost</u>	<u>Lost</u>	<u>Lost</u>	<u>(500)</u>
TTP	<u>Nil</u>	<u>Nil</u>	<u>Nil</u>	<u>14,500</u>

**(b) Loss Memo**

	£
Loss y/e 31.3.10	150,000
Used current year 31.3.10	(12,000)
Used previous year 31.3.09	(122,000)
Used previous year 31.3.08	<u>(12,000)</u>
Available to carry forward	4,000
Used following year 31.3.11	<u>(4,000)</u>
Loss available to c/fwd	<b><u>£Nil</u></b>

**(c) Tax repayments years ended 31 March 2008 and 2009**

Original computation:

	31.3.08	31.3.09
	£	£
Trade profit	12,000	100,000
Non-trading profit (LR)	Nil	10,000
Chargeable gain	<u>Nil</u>	<u>12,000</u>
	12,000	122,000
Less: Donation to charity	<u>(500)</u>	<u>(500)</u>
TTP	<u>11,500</u>	<u>121,500</u>
CT liability @ 20%/21%	<u>£2,300</u>	<u>£25,515</u>

The whole of the tax of £27,815 will be repaid as TTP is reduced to nil after the carry back of losses.

**Answer 2****(a) Current Year Claim**

	Y/e 31.3.11
	£
Trade profit	Nil
UK property business income	<u>10,000</u>
Total Profits	10,000
<b>Less: s.37(3)(a) current year loss</b>	<b><u>(10,000)</u></b>
	Nil
Donation to charity	<u>Unrelieved</u>
TTP	<u>Nil</u>
Loss Memo:	
	£
Total loss	50,000
Current year claim	<u>(10,000)</u>
	<u>£40,000</u>

The unrelieved donation to charity will be lost.

**(b) Losses Carried Back**

	Y/e 30.9.09	6m/e 31.3.10
	£	£
Trade profit	26,000	12,000
UK property business income	<u>10,000</u>	<u>5,000</u>
	36,000	17,000
<b>s.37(3)(b) loss brought back</b>	<b><u>(18,000)*</u></b>	<b><u>(17,000)</u></b>
	18,000	Nil
Donation to charity	<u>(1,000)</u>	<u>Unrelieved</u>
TTP	<u><u>£17,000</u></u>	<u><u>Nil</u></u>

\* The time apportioned carry back is calculated on total profits before qualifying charitable donations.

$$\text{i.e. } \pounds 36,000 \times \frac{6}{12} = \pounds 18,000.$$

Loss memo:

	£
Total loss	50,000
Current year	(10,000)
Carried back to 6m/e 31.3.10	(17,000)
to 12m/e 30.9.09 $\pounds 36,000 \times \frac{6}{12}$	<u>(18,000)</u>
	<u><u>£5,000</u></u>

**(c) Loss Carried Forward**

	Y/e 31.3.12
	£
Trade profit	6,000
<b>Losses brought forward s.45(4)</b>	<b><u>(5,000)</u></b>
	1,000
UK property business income	<u>10,000</u>
	11,000
Donation to charity	<u>(1,000)</u>
TTP	<u><u>£10,000</u></u>

Loss memo:

	£
Total loss	50,000
Current year	(10,000)
Carried back to 6m/e 31.3.10	(17,000)
to 12m/e 30.9.09 $\pounds 36,000 \times \frac{6}{12}$	<u>(18,000)</u>
Carried forward	5,000
Offset in y/e 31.3.12	<u>(5,000)</u>
Carried forward	<u><u>Nil</u></u>